

IN RE: PETITION FOR SPECIAL HEARING
N/S Johnson Street, 95.6' E
of Waters Lane
(5916 Johnson Street)
1st Election District
1st Councilmanic District
Lorenz Construction Company
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-94-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the issuance of a building permit, pursuant to Section 304 of the Baltimore County Zoning Regulations (B.C.Z.R.), for construction of a dwelling on an undersized lot, pursuant to Sections 304.a, b, and c, all as more particularly described on Petitioner's Exhibit 7.

The Petitioner, by Victor W. Lorenz, President, appeared, testified and was represented by Thomas L. Hennessey, Esquire. Also appearing and testifying on behalf of the Petitioner were Phyllis Mitchell, Real Estate Agent, Kathleen Ashby and Mary Beth Angus with Fairview Federal Bank, and Timothy Lorenz, son of Victor W. Lorenz. Various members of the community appeared in opposition to Petitioner's request.

Testimony indicated that the subject property, known as 5916 Johnson Street, is 40 feet wide by 110 feet deep, zoned D.R. 5.5 and is presently unimproved. Said property is also known as Lots 5 and 6, Block N, of the Catonsville Pines subdivision, which was duly recorded in the Land Records of Baltimore County in 1925. Petitioner was advised to file the instant Petition after being issued a stop work order on construction of a single family dwelling on the subject property. Mr. Lorenz testified he purchased the subject property in December 1990 and that settlement on same occurred on February 11, 1991 (see Petitioner's Exhibits 1 and 4).

ORDER RECEIVED FOR FILING
Date 10/28/91
By [Signature]

Both the Petitioner and the Real Estate Agent involved in the transfer of this property, Ms. Mitchell, verified the existence of this permit. Further, Mr. Lorenz had in his possession a copy of the valid building permit (see Petitioner's Exhibit 3). Testimony indicated that on February 25, 1991, which was some 14 days after Petitioner settled on the purchase of the property, and after the Petitioner had already constructed a concrete footing for the proposed dwelling, a stop work order was issued by Baltimore County and the building permit rescinded, per John Reisinger, Department of Permits and Licenses. Petitioner testified the stop work order was posted on the property only a few hours after he paid \$2,442 to Baltimore County for sewer hook-up for this site (see Petitioner's Exhibit 9). Testimony indicated that no construction has taken place on this property since the issuance of the stop work order. Further testimony indicated that the construction loan obtained by the Petitioner continues to accrue interest even though no work is progressing on the site.

Section 304 of the B.C.Z.R. applies to the use and development of single family lots. In order for Petitioner to satisfy the requirements thereof, he must show three things:

- a) that such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to the adoption of these zoning regulations;
- b) that all other requirements of height and area regulations are complied with; and,
- c) that the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements.

In the opinion of this Deputy Zoning Commissioner, it is clear that the Petitioner satisfies Section 304.a of the B.C.Z.R. in that these lots were recorded in 1925 as evidenced by Petitioner's Exhibit 8. Further, the Petitioner has satisfied Section 304.b in that he is not request-

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ing any other variances for the subject property other than for the insufficient width of the lot. It is equally clear that the Petitioner has satisfied Section 304.c in that he does not own sufficient adjoining land to conform substantially to the width requirement of 55 feet.

The evidence is clear, and I believe both sides would agree, that prior to the Lorenz Construction Company purchasing this lot, some misrepresentations were made to Baltimore County by the previous owner of the subject property. It is also clear that this particular parcel of property enjoyed contiguous ownership with adjacent properties prior to its purchase by the Lorenz Construction Company. As such, it becomes necessary to consult the Zoning Commissioner's Policy Manual on this issue. Page 3-3 of said Manual, Section 304, Paragraph 2, states that it is important to consider the intent of the owner who attempts to invoke the applicability of Section 304 of the B.C.Z.R. Each situation must be judged individually by the particular facts and circumstances presented. If the intent to avoid the regulations is obvious, Section 304.c cannot be invoked and variances must be required. Furthermore, in Paragraph 3 thereof, if a single owner of contiguous undersized lots has purchased the property in good faith and without any intent to avoid the area requirements, Section 304.c may be used to allow the owner to build pursuant thereto. Good faith also must be determined by the facts and circumstances of each situation, but such factors as dates of purchase of the parcels, the purpose of the purchase and the intent of the purchase can be utilized to so determine.

Based upon the facts presented at the hearing, I find that the Lorenz Construction Company had no intent to defraud Baltimore County or any of the neighbors of the Catonsville Pines subdivision. I also find that Lorenz Construction Company proceeded in good faith and used every

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Date 10/28/91
By [Signature]

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effort available to ascertain that a valid building permit did in fact exist for this property. I think that the members of the surrounding community would agree with this determination.

I further find that the Petitioner has satisfied Section 304 of the B.C.Z.R. as that Section is interpreted in conjunction with the Zoning Commissioner's Policy Manual. It should be noted that said Policy Manual would also permit an individual such as the Petitioner to build on this particular lot after the passage of six years from the date of purchase. This is known as the "six year rule". Therefore, at some point in time after the passage of six years, a house could be constructed at this location.

Given the hardship in which the Petitioner finds himself, through no fault of his own, I find that the Petitioner should be permitted to proceed with the construction of this single family dwelling. The Petitioner has already lost valuable time and money over this entire incident and should be penalized no further.

I understand the manner in which granting the Petitioner's request affects the surrounding community. However, testimony was presented indicating that there are other houses in the neighborhood which were built on 40-foot wide lots. It is also noted that a house would have been built on this particular lot after the six year waiting period, regardless of the circumstances set forth herein.

Pursuant to the advertisement, posting of the property, and public hearing held in this matter, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of October, 1991 that the Petition for

ORDER RECEIVED FOR FILING
Date 10/28/91
By [Signature]

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Special Hearing to approve the issuance of a valid building permit, pursuant to Section 304 of the Baltimore County Zoning Regulations (B.C.Z.R.), for the construction of a single family dwelling on an undersized lot, pursuant to Sections 304.a, b, and c, in accordance with Petitioner's Exhibit 7, be and is hereby GRANTED.

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
Date 10/28/91
By [Signature]

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3354

October 28, 1991

Thomas L. Hennessey, Esquire
407 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
N/S Johnson Street, 95.6' E of Waters Lane
(5916 Johnson Street)
1st Election District - 1st Councilmanic District
Lorenz Construction Company - Petitioner
Case No. 92-94-SPH

Dear Mr. Hennessey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

[Signature]
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: All Protestants (see attached sheet)

People's Counsel

File

PROTESTANTS (Case No. 92-94-SPH)

Mr. Tarsis N. Butler
5912 Johnson Street, Baltimore, Md. 21228

Mr. John A. Griffin
5901 Johnson Street, Baltimore, Md. 21228

Ms. Emma Waterhouse
5900 Johnson Street, Baltimore, Md. 21228

Mr. George Clay
5909 Johnson Street, Baltimore, Md. 21228

Ms. Hannah Lindsey
306 Pargel Avenue, Baltimore, Md. 21228

Mr. Harold P. Patterson
5908 Johnson Street, Baltimore, Md. 21228

PETITION FOR SPECIAL HEARING
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 92-94-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the issuance of a Building Permit based upon Section 304 of the Baltimore County Zoning Regulations for construction of a dwelling on an undersized lot in accordance with Section a b c of Section 304 of the Baltimore County Zoning Regulations (40 foot width on recorded plat).
Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Thomas L. Hennessey, P.A.

(Type or Print Name)

Signature

407 W. Pennsylvania Avenue

Address

Towson, MD 21204

City and State

Attorney's Telephone No.: 301-823-7710

Legal Owner(s):

LORENZ CONSTRUCTION COMPANY

By: VICTOR W. LORENZ, President

(Type or Print Name)

Signature

(Type or Print Name)

Signature

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

6920 Donachie Road 821-7090

Baltimore, Maryland 21239

City and State

Name

Victor W. Lorenz

6920 Donachie Road, Balto., MD 21239

Address

Phone No.

APPROVED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, that the subject matter of this petition be advertised, as required by the Zoning Law for Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 404 County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock _____ M.

Zoning Commissioner of Baltimore County

E.C.O.-No. 1

(over) ORDER RECEIVED FOR FILING

Date

By

105

5916 Johnson Street
Baltimore County, Maryland

BEGINNING at a point 95.60 feet more or less from the intersection of Johnson Street and Winters Lane for the following courses and distances, viz: North 83 degrees 20 minutes 30 seconds East 40 feet; North 06 degrees 33 minutes 22 seconds West 110 feet; South 83 degrees 26 minutes 38 seconds West 40 feet, and South 06 degrees 33 minutes 22 seconds East 110 feet to the place of beginning.

BEING also Lots Nos. 5 and 6, Section N on the Revised Plat of Catonsville Pines which plat is recorded among the Land Records of Baltimore County in Plat Book No. 9 folio 41.

92-94-SPH

105

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
TOWSON, MARYLAND

District: 1st Date of Posting: 9/24/91
Posted for: Special Hearing
Petitioner: Lorenz Construction Company
Location of property: 111 W. Chesapeake Avenue, Catonsville, Maryland
Location of Signs: 111 W. Chesapeake Avenue, Catonsville, Maryland
Remarks:
Posted by: [Signature] Date of return: 9/27/91
Number of Signs: 1

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-94-SPH
N/S Johnson Street,
95.6' E of Waters Lane
5916 Johnson Street
1st Election District
1st Councilmanic
Petitioner(s): Lorenz Construction Company
Hearing Date: Friday,
Oct. 18, 1991 at 2:00 p.m.
Special Hearing: to approve the issuance of a building permit for construction of a dwelling on an undersized lot (40 foot width on recorded plat).
Zoning Commissioner of Baltimore County
CJA/301 September 28

CERTIFICATE OF PUBLICATION
TOWSON, MD., 10/2/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/26/91.

THE JEFFERSONIAN,

S. Zate Orlan
Publisher

\$56.70

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-94-SPH
N/S Johnson Street,
95.6' E of Waters Lane
5916 Johnson Street
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Zoning Commissioner of Baltimore County
CJA/301 September 28

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/26/91.

CATONSVILLE TIMES

S. Zate Orlan
Publisher

\$56.70

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Receipt
Date: 9/24/91 Account: R-001-6150
Number: 4001-18
Description: 92-94-SPH
Amount: \$175.00
DA0480030N1CHRC
BA 000342PH08-27-91
Please Make Checks Payable To: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Date: 9/24/91 Account: P-001-6150
Number: 4001-18
Description: 92-94-SPH
Amount: \$175.00
DA0480030N1CHRC
BA 000342PH08-27-91
Please Make Checks Payable To: Baltimore County

111 West Chesapeake Avenue
Towson, MD. 21204

887-3354

DATE: 9/24/91

Lorenz Construction Company
6920 Donachie Road
Baltimore, Maryland 21239

RE:
Case Number: 92-94-SPH
N/S Johnson Street, 95.6' E of Waters Lane
5916 Johnson Street
1st Election District - 1st Councilmanic
Petitioner(s): Lorenz Construction Company
HEARING: FRIDAY, OCTOBER 18, 1991 at 2:00 p.m.

Dear Petitioner(s):

Please be advised that \$ 56.70 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Lawrence E. Schmidt
Lawrence E. Schmidt

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Thomas L. Hennessey, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

SEPTEMBER 13, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-94-SPH
N/S Johnson Street, 95.6' E of Waters Lane
5916 Johnson Street
1st Election District - 1st Councilmanic
Petitioner(s): Lorenz Construction Company
HEARING: FRIDAY, OCTOBER 18, 1991 at 2:00 p.m.

Special Hearing to approve the issuance of a building permit for construction of a dwelling on an undersized lot (40 foot width on recorded plat).

J. Robert Haines

Zoning Commissioner of
Baltimore County

cc: Lorenz Construction Company
Thomas L. Hennessey, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

October 1, 1991

Thomas L. Hennessey, Esquire
407 W. Pennsylvania Avenue
Towson, MD 21204

RE: Item No. 105, Case No. 92-94-SPH
Petitioner: Lorenz Construction Co.
Petition for Special Hearing

Dear Mr. Hennessey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Oyer
JAMES E. OYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Victor M. Lorenz
Lorenz Construction Company
6920 Donachie Road
Baltimore, MD 21239

111 West Chesapeake Avenue
Towson, MD 21204

887-3354

Your petition has been received and accepted for filing this
26th day of August, 1991.

Arnold Jablan
ARNOLD JABLAN
DIRECTOR

Received By:

James E. Oyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Lorenz Construction Co., et al
Petitioner's Attorney: Thomas L. Hennessey

